UNITED STATES PATENT AND TRADEMARK OFFICE

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10/023,241	12/17/2001	Philip M. Ginsberg	CF-16	3705

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EXAMINER
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ART UNIT	PAPER NUMBER
3693	

DATE MAILED: 12/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 December 2001*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-54* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-54* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date *10/28/02, 3/19/03*.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by
> another filed in the United States before the invention by the applicant for patent or (2) a patent
> granted on an application for patent by another filed in the United States before the invention by the
> applicant for patent, except that an international application filed under the treaty defined in section
> 351(a) shall have the effects for purposes of this subsection of an application filed in the United States
> only if the international application designated the United States and was published under Article 21(2)
> of such treaty in the English language.

Claims 1, 3-5, 7, 9, 19, 25-26, 28, 30 are rejected under 35 U.S.C. 102(e) as being

clearly anticipated by Gianakouros et al (hereinafter Gianakouros-US 2002/0055901).

Re. Claim 1, Gianakouros discloses a plurality of workstations for presenting trade

information relating to said items [paragraph/para. 77],

        a server programmed to support a control logic (software Figure 2) having at

least one state (buy/sell), said at least one state being based on a set of predefined

state attributes relating to said trade information, said control logic that receives said

trade information from said plurality of workstations based on said state attributes [para.

35; para. 40 (see last lines); para. 49], and that determines a commission based on said

trade information [para. 57 (see -commission is charged per share that a broker

receives ...), calculating commission is inherent], and

        a plurality of communications links for linking said server to said workstations

[para. 46; para. 77].

Re. Claim 3, Gianakouros discloses a back office clearing center for clearing said

purchase and said sale of said items [para. 23, 27]; and a communications link for

linking said server to said back office clearing center [Figure 2; para. 77].

Re. Claim 4, Gianakouros discloses wherein said *system* is adapted to be operated by

at least one customer participating in trading at least one of said items [para. 15].

Re. Claim 5, Gianakouros discloses wherein each one of said workstations comprises a

display for presenting said trade information in order for said at least one customer to

verify said trade information, and for said at least one customer to correct said trade

information when at least one error in said trade information is found [para. 51, 60].

Re. Claim 7, Gianakouros discloses wherein said at least one state comprises an Entity

Identification State [para. 35].

Re. Claim 9, Gianakouros discloses wherein said Entity Identification State is adapted

for assigning a Legal Entity Identifier to a customer, said customer participating in said

transacting said purchase and said sale of said items [para. 35,40].

Re. Claim 19, Gianakouros discloses wherein said server further comprises a command

vector processor (software- figure 2) for presenting said trade information on said

workstations, said presenting being guided by said control logic [Fig. 2, Fig. 4 see for

example list of executions;para.40 last lines; para.88].

Re. Claim 25, Gianakouros discloses providing a control logic (software figure 2) having

at least one state, said at least one state being based on a set of predefined trade

attributes, receiving trade information relating to said item, and in said at least one state,

characterizing said trade information based on said trade attributes [para. 35; para. 40

(see last lines); para. 49], and determining said commission based on said

characterizing said trade information [para. 57 (see -commission is charged per share

that a broker receives ...), calculating commission is inherent].

Re. Claim 26, Gianakouros discloses verifying said trade information, and when said

verifying has detected at least one error in said trade information, correcting said error

[para. 51, 60].

Re. Claims 28 and 30, Gianakouros discloses wherein said receiving said trade

information in said at least one state comprises receiving said trade information in an

Entity Identification State and wherein said receiving said trade information in said Entity

Identification State comprises assigning at least one of said two customers a Legal

Entity Identifier [para. 35; para. 40 (see last lines); para. 49].

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 2, 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Gianakouros.

Re. Claim 2, Gianakouros discloses broker GUI, view alerts and monitoring operations

[para.46] and market point display which shows the buy/sell attributes (wherein said

control logic distributes said trade information to at least one of said plurality of

workstations) [Figure 4; para. 88]; para. 60]. Gianakouros does not explicitly disclose

distributes said commission. However, this is business choice and it is obvious that a

cost of buy/sell includes commission/fees and the price and fees can be distributed

separately. It would have been obvious at the time the invention was made to a person

having ordinary skill in the art to modify the disclosure of Gianakouros and include the

distribution commission (display commission) to inform the client what he is paying and

allow him/her to find competitive price.

Re. Claim 6, Gianakouros does not explicitly disclose wherein said display is adapted

for presenting a commission or a reward to said at least one customer. However, this is

business choice and it is obvious that a cost of buy/sell includes commission/fees and

the price and fees can be distributed separately. It would have been obvious at the time

the invention was made to a person having ordinary skill in the art to modify the
disclosure of Gianakouros and include the distribution commission (display commission)
to inform the client what he is paying and allow him/her to find competitive price.

Re. Claim 8, Gianakouros does not explicitly disclose wherein said Entity Identification
State is adapted for determining a commission agreement. However, this is business
choice and it is obvious that a cost of buy/sell includes commission/fees and the price
and fees can be distributed separately to individuals as a preferred client. It would have
been obvious at the time the invention was made to a person having ordinary skill in the
art to modify the disclosure of Gianakouros and include the distribution commission
(display commission) to inform the client what he is paying and allow him/her to find
competitive price.

Claims 10-17 and 31-35 are rejected under 35 U.S.C. 103(a) as being unpatentable
over Gianakouros in view of Broker.com.

Re. Claims 10-16, Gianakouros does not explicitly disclose wherein said at least one
state comprises an Environment State, wherein said Environment State is adapted for
determining whether a customer was active or passive during a trade of at least one of
said items, wherein said Environment State is adapted for determining a class of items
which includes at least one of said items, and wherein said Environment State is

adapted for determining the time, day, or location of a trade of said at least one of said

items. wherein said at least one state comprises a Behavior Pattern State, wherein said

Behavior Pattern State is adapted to determine a plurality of trades of at least one of

said items in which a customer participated, and wherein said Behavior Pattern State is

adapted to determine a plurality of trades of at least one of said items to which a

customer is committed. However, Broker.com discloses these feature [see particularly

page 5 (top performer); page 6 2nd paragraph ("reward", hourly fee etc. "RIA"); page 8

(Flat fee $39.95; $29.95 up to 1,000 shares); page 9 see Schwab account type); page

12 (Exhibit 12 ML fee-based or discount-commission); page 14 (ML $410,000

commission; bonuses); page 17 (variable fee based on size of asset); pages 30-32

(charts for commission and fees)]. It would have been obvious at the time the invention

was made to a person having ordinary skill in the art to modify the disclosure of

Gianakouros and include the above feature disclosed by Broker.com to provide

competitive products and allow the brokers and client to become loyal member of

trading institution and add value to business and at the same time gain reward and

better commission.

Re. Claim 17, Gianakouros disclose wherein said at least one state comprises an Entity

Identification State [para. 35]. Broker.com discloses an Environment State [see supra].

It would have been obvious at the time the invention was made to a person having

ordinary skill in the art to modify the disclosure of Gianakouros and include the above

feature disclosed by Broker.com to provide competitive products and allow the brokers

and client to become loyal member of trading institution and add value to business and at the same time gain reward and better commission. Gianakouros or Broker.com does not explicitly disclose a Behavior Pattern State. However, day traders, long term investors, full service broker, discount broker, preferred client, internet trading are known. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosure of Gianakouros and Broker and include variable commission/reward and compensation package for preferred client/broker to encourage different type of investors/broker to invest, trade and provide service as a loyal customer and valuable representative.

Re. Claims 31-35, claims 31-35 are rejected with same rational as claims 10-16.

Claims 18, 20-24, 27, 29, 36-41 and 50-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gianakouros in view Koppelman et al. (hereinafter Koppelman – US 6,662,164).

Re. Claims 18, 20-22, Gianakouros discloses server, workstations, use of internet of trading and control logic (supra). Gianakouros does not explicitly disclose wherein said server further comprises a post-trade processor for receiving and organizing said trade information, said receiving and said organizing being guided by said control logic,

wherein said server further comprises a commission calculation processor for allocating commission payments and awards to traders of said items, said allocating being guided by said control logic.

a post-trade processor for receiving and organizing said trade information, said receiving and said organizing being guided by said control logic;

a command vector processor (software) for presenting said trade information on said workstations, said presenting being guided by said control logic, and

and a commission calculation processor (software) for allocating commission payments and awards to traders of said items, said allocating being guided by said control logic, and

wherein said control logic is adapted to enable customers in different locations at different times to participate in trading said items. However, day trading and off trading transactions using internet are known, where clients/broker using different time, location and station can trade to give them flexibility and opportunities to trade as they choose.

Koppelman disclose wherein said server further comprises a post-trade processor for receiving and organizing said trade information, said receiving and said organizing being guided by said control logic,

wherein said server further comprises a commission calculation processor for allocating commission payments and awards to traders of said items, said allocating being guided by said control logic.

a post-trade processor for receiving and organizing said trade information, said receiving and said organizing being guided by said control logic;

a command vector processor (software) for presenting said trade information on

said workstations, said presenting being guided by said control logic, and

and a commission calculation processor for allocating commission

payments and awards to traders of said items, said allocating being guided by said

control logic [Abstract; Figures 1, 4 and associated descriptions ; col. 7 lines 5-33; col. 8

lines 31-57; col. 15 lines 20-45; col. 19 line 65 to col. 20 line 17; utilization of computer

software; plans; claim 14] to measure performance of each broker and utilization of

service by the clients and allocation/granting of future preference/quotas.

It would have been obvious at the time the invention was made to a person having

ordinary skill in the art to modify the disclosure of Gianakouros and include the above

features disclosed by Koppelman in order to calculate the rewards/commission and

bonus for eligible traders.

Re. Claim 23, Gianakouros discloses a plurality of workstations for presenting trade

information relating to said items, a server programmed to support a control logic having

at least one state, said at least one state being based on a set of predefined state

attributes relating to said trade information and list trades (vector/array of trades), a

plurality of communications links for linking said server to said workstations, receives

said trade information from said plurality of workstations based on said state attributes,

and that determines a commission based on said trade information (size, etc) and

control logic [see supra.]

Gianakouros does not explicitly disclose said control logic that implements a commission vector (list, plans), said commission vector. However, Koppelman discloses this feature [Figure 4; tables 1-2; and above reference] to implement a processing engine to execute an incentives program for clients/brokers and measure their performance based on their activities. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosure of Gianakouros and include the above feature disclosed by Koppelman in order implement incentive plans for recipients and calculate the recipients rewards/commission and bonus for eligible traders and displaying a report of the set of recipients' performances.

Re. Claim 24, Gianakouros discloses identifying codes [fig. 4; para.25]. Gianakouros or Koppelman does not explicitly disclose wherein said commission vector comprises a plurality of alphanumeric elements relating to said trade information. However, it is obvious that any trade the traders/client account number are included to differentiate the broker/client having same name or attribute, for example, BRK012 (broker 12 Joshua) or CI102 (Eileen). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosures of Gianakouros and Koppelman and include an alphanumerical (numbers and characters) to provide larger set of identifiers for clients/broker.

Re. Claim 27, Gianakouros does not explicitly disclose assigning at least one of said

two customers said commission based on said characterizing said trade information,

and presenting said commission to said at least one of said two customers. However,

Koppelman discloses these feature [see supra; Figures 1, 4; tables and associated

descriptions] to inform the customer of his reward/commission/fee rating. It would have

been obvious at the time the invention was made to a person having ordinary skill in the

art to modify the disclosure of Gianakouros and include the distribution commission

(display commission) as disclosed by Koppelman to inform the client what he is paying

for trading and allow him/her to choose to execute a trade or not.

Re. Claim 29, Gianakouros does not explicitly disclose wherein said receiving said trade

information in said Entity Identification State comprises classifying at least one of said

two customers according to a commission agreement. However, Koppelman discloses

this feature [col. 13 line 60 to col. 14 line 17] to assign a trading level which the

customer has agreed on. It would have been obvious at the time the invention was

made to a person having ordinary skill in the art to modify the disclosure of Gianakouros

and include the above feature disclosed by Koppelman to quota level for customer to

trade before becoming eligible for discount in commission or reward.

Re. Claim 36, Gianakouros discloses   providing a control logic having at least one

state, said at least one state being based on a set of predefined trade attributes, and

receiving trade information relating to said item; in said at least one state, characterizing said trade information based on said trade attributes [See supra.

]. Koppelman discloses creating a commission vector (incentive plans) based on said characterizing said trade information, and determining said commission based on said commission vector [Figure 4; tables 1-2; and above reference] to create an incentive plans for client/broker based on volume of trade. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosure of Gianakouros and include the above feature disclosed by Koppelman in order implement and create an incentive plans for recipients to promote business and calculate the rewards/commission and bonus for eligible traders/clients based on set of allocation rules, activities and performances.

Re. Claim 37, Gianakouros discloses providing a control logic having at least one state, said at least one state being based on a set of predefined trade attributes, receiving trade information relating to said item, and in said at least one state, characterizing said trade information based on said trade attributes, and determining said commission based on said characterizing said trade information [see supra]. Gianakouros does not explicitly disclose determining reward. However, Koppelman disclose this feature [col. 17 line 60 to col. 18 line 10] to set up promotion rules and target goals and determine rewards based on these rules to evaluate desired level of performance earn by the recipients. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosure of Gianakouros and include the   .

above features disclosed by Koppelman to evaluate desired level of performance earn

by the recipients.

Re. Claim 38, Gianakouros discloses verifying said trade information, and when said

verifying has detected at least one error in said trade information, correcting said error

[para. 51, 60].

Re. Claim 39, Gianakouros does not explicitly disclose assigning said reward to said

customer based on said characterizing said trade information, and presenting said

reward to said customer. However, Koppelman discloses these feature [see supra;

Figures 1, 4; tables and associated descriptions] to inform the customer of his

reward/commission/fee rating. It would have been obvious at the time the invention was

made to a person having ordinary skill in the art to modify the disclosure of Gianakouros

and include the distribution commission (display commission) as disclosed by

Koppelman, to inform the client what he is paying for trading and allow him/her to

choose to execute a trade or not.

Re. Claims 40-41, Gianakouros discloses wherein said receiving said trade information

in said at least one state comprises receiving said trade information in an Entity

Identification State, and wherein said receiving said trade information in said Entity

Identification State comprises assigning said customer a Legal Entity Identifier [para.

35; para. 40 (see last lines); para. 49].

Re. Claims 50-53, Gianakouros discloses sell and buy side of a security (items similar to said item being traded by said customer were traded by other customers at the time, day, or location said item was traded by said customer) and customer for participating in at least part of said trade [abstract; para. 33; 40]. Gianakouros does not explicitly disclose determining said reward, reward comprises determining whether said customer is a new customer, rewarding said customer for participating in at least part of said trade, and determining a rebate, a credit, or both assigned to said customer. However, assign new customer for rebates and credit (determining whether said customer is a new customer, rewarding said customer for participating in at least part of said trade, and determining a rebate, a credit, or both assigned to said customer) are known. For example, most of store provide incentive to new customer to apply for store credit card and they will receive 10% credit and rebates for using their cards. It is obvious that to attract new customer and compete with others, store provide these incentives. Koppelman discloses determining said reward, reward [see supra]. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosure of Gianakouros and include the above feature disclosed by Koppelman in order to calculate the rewards and bonus for eligible clients based on clients activity.

Re. Claim 54, Gianakouros discloses providing a control logic having at least one state,

said at least one state being based on a set of predefined trade attributes, receiving

trade information relating to said item, and in said at least one state, characterizing said

trade information based on said trade attributes [See supra]. Koppelman discloses

creating a commission vector based on said characterizing said trade information and

determining said reward based on said commission vector Figure 4; tables 1-2; and

above reference] to create an incentive and promotion for performance of recipients. It

would have been obvious at the time the invention was made to a person having

ordinary skill in the art to modify the disclosure of Gianakouros and include the above

feature disclosed by Koppelman in order promote business, set promotion allocations

in form of incentives (rewards/commission) and calculate the rewards/commission and

bonus for eligible traders/clients based on their activities and performances.

Claims 42-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Gianakouros and Koppelman, as applied to claim 37 and further in view of Broker.com.

Re. Claims 42-48, Gianakouros or Koppelman does not explicitly disclose wherein said

receiving said trade information said at least one state comprises receiving said trade

information in an Environment State, wherein said receiving said trade information in

said Environment State comprises determining whether said customer was active or

passive during said trade, wherein said receiving said trade information in said

Environment State comprises determining a class which includes said item, wherein

said receiving said trade information in said Environment State comprises determining a

time, a day or a location in which said item was traded, wherein said receiving said

trade information in said at least one state comprises receiving said trade information in

a Behavior Pattern State, wherein said receiving said trade information in said Behavior

Pattern State comprises determining a plurality of trades in which said customer

participated, and wherein said receiving said trade information in said Behavior Pattern

State comprises determining a plurality of trades to which said customer is committed.

However, Broker.com discloses these feature [see particularly page 5 (top performer);

page 6 2nd paragraph ("reward", hourly fee etc. "RIA"); page 8 (Flat fee $39.95; $29.95

up to 1,000 shares); page 9 see Schwab account type); page 12 (Exhibit 12 ML fee-

based or discount-commission); page 14 (ML $410,000 commission; bonuses); page 17

(variable fee based on size of asset); pages 30-32 (charts for commission and fees)]. It

would have been obvious at the time the invention was made to a person having

ordinary skill in the art to modify the disclosure of Gianakouros and Koppelman and

include the above feature disclosed by Broker.com to provide competitive products and

allow the brokers and client to become loyal member of trading institution and add value

to business and at the same time gain reward and better commission.

Re. Claim 49, Gianakouros disclose receiving said trade information in said at least one

state comprises receiving said trade information in an Entity Identification State [para.

35; para. 40 (see last lines); para. 49]. Broker.com discloses an Environment State [see

supra]. It would have been obvious at the time the invention was made to a person

having ordinary skill in the art to modify the disclosure of Gianakouros and Koppelman
and include the above feature disclosed by Broker.com to provide competitive products
and allow the brokers and client to become loyal member of trading institution and add
value to business and at the same time gain reward and better commission.
Gianakouros, Koppelman or Broker.com does not explicitly disclose a Behavior Pattern
State. However, day traders, long term investors, full service broker, discount broker,
preferred client, internet trading are known. It would have been obvious at the time the
invention was made to a person having ordinary skill in the art to modify the disclosure
of Gianakouros, Koppelman and Broker and include variable commission/reward and
compensation package for preferred client/broker to encourage different type of
investors/broker to invest, trade and provide service as a loyal customer and valuable
representative.

Conclusion

Claims 1-54 are rejected.

Any inquiry concerning this communication or earlier communications from the
examiner should be directed to Harish T. Dass whose telephone number is 571-272-
6793. The examiner can normally be reached on 8:00 AM to 4:50 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's
supervisor, James P. Trammell can be reached on 571-272-6712. The fax phone
number for the organization where this application or proceeding is assigned is 571-
273-8300.

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system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Harish T Dass   *Harish T Dass*
Examiner
Art Unit 3693

12/10/06